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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,376	03/24/2006	Bernhard Fischereder	038777/309540	2728
826	7590	08/30/2007	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			LIVEDALEN, BRIAN J	
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/573,376	FISCHEREDER, BERNHARD
	<b>Examiner</b>	<b>Art Unit</b>
	Brian J. Livedalen	2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 March 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/24/2006</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Objections***

Claim 6 recites the limitation "the guide housing." There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 4, 6, 10, 11, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Fiessler (6919555).

In regard to claim 1, Fiessler discloses (fig. 1) a safety device comprising a beam emitting and beam receiving device, for a manufacturing machine, with at least one retaining mechanism designed in the form of an adjusting mechanism for the safety device on a press beam which can be fitted with bending tools (10) in a tool mounting device, whereby the adjusting mechanism holds, in a relatively adjustable manner relative to the press beam, the beam emitter and/or beam receiver (16 and 17) in a direction running perpendicular to a standing surface between at least one working position and a park position in a guiding arrangement (column 4, line 58 – column 5, line

3), wherein the adjusting mechanism has a guiding and locking device (20) switching a locking element (18) of a locking device between a released position and a retained position, and the retaining mechanism for the beam emitter and/or the beam receiver automatically locks in relation to the press beam in the park position upon a linear displacement in a direction opposite to the working plane on reaching the park position (column 2, lines 43-53, column 5, lines 4-28, column 6, lines 2-25).

In regard to claim 3, Fiessler discloses a safety device characterized in that the guiding and locking device is arranged on the retaining mechanism in a stationary manner (column 5, lines 4-17).

In regard to claim 4, Fiessler discloses a safety device characterized in that the locking element in the guiding and locking device is arranged to be adjustable in a direction running perpendicular to the retaining mechanism (column 5, lines 4-17).

In regard to claim 6, Fiessler discloses (fig. 1) a safety device characterized in that the locking element is adjustably mounted in the guide housing (14) by means of a sliding guide (interior of 14).

In regard to claim 10, Fiessler discloses (fig. 1) a safety device characterized in that a guide rail (15) for the guiding and locking device is connected moveably with the press beam (column 5, lines 4-17).

In regard to claim 11, Fiessler discloses (fig. 1) a safety device characterized in that the guide rail (15) is connected moveably with the retaining mechanism (column 5, lines 4-17).

Art Unit: 2878

In regard to claim 21, Fiessler discloses (figs. 1-7) a safety device characterized in that an adjustment path of the retaining mechanism starting from the park position to position the beam emitter and beam receiver can be adapted to various working positions by stop means to different heights of the bending tools (column 5, lines 4-28, column 6, lines 2-25).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fiessler (6919555).

In regard to claim 2, Fiessler discloses a safety device as set forth above. Fiessler fails to disclose the guiding and locking device being arranged on the adjustable press beam in a stationary manner. However, it is well known in the art to interchange elements of a locking device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to place the guiding and locking device on the adjustable press beam in order to adapt the system size and shape according to the needed parameters.

Claims 5, 7-9, 12-20, and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fiessler (6919555) in view of Lai (5588766).

In regard to claim 5, Fiessler discloses a safety device as set forth above. Fiessler fails to disclose that the locking element is arranged in a guide housing arranged in a bore of a housing of the guiding and locking device. However, Lai discloses (fig. 1) a sliding adjustment member having a locking element (22) arranged in a guide housing arranged in a bore of a housing of a guide and locking device (4) (column 2, lines 1-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to using the incorporate the system of Lai as a locking and adjusting system into the safety device of Fiessler in order to provide multiple locked positions that can bear a great load (column 1, lines 40-51).

In regard to claim 7, Fiessler discloses (fig. 1) a safety device characterized in that the locking element is pretensioned by means of a spring (19) arrangement acting between the locking element (18) and the guide housing (14). Fiessler fails to disclose the spring arranged projecting over a side surface of the housing in the direction of a stop and switching means. However, Lai discloses (fig. 1) a sliding adjustment member using a spring (33) engaging a locking element (22) in the direction of a stop and switching means (4) (column 2, lines 1-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the system of Lai as a locking and adjusting system into the safety device of Fiessler in order to provide multiple locked positions that can bear a great load (column 1, lines 40-51).

Art Unit: 2878

In regard to claim 8, Fiessler in view of Lai discloses (Fiessler, fig. 1; Lai, fig. 1) a safety device as set forth above. Fiessler in view of Lai fail to disclose the stop and switching means being secured onto the retaining mechanism. However, it is well known in the art to interchange elements of a locking device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to place the stop and switching means on the retaining mechanism in order to adapt the system size and shape according to the needed parameters.

In regard to claim 9, Fiessler in view of Lai discloses (Fiessler, fig. 1; Lai, fig. 1) a safety device characterized in that the stop and switching means is secured onto the press beam.

In regard to claim 12, Fiessler in view of Lai discloses (Lai, fig. 1) a safety device characterized in that the stop and switching means (4) on displacement of the guiding and locking device (22) in a displacement direction forms an adjusting means (41) triggering an adjusting force on an end face of the locking element in the extension direction of a middle axis against the action of the spring arrangement (Lai, column 2, lines 1-38).

In regard to claim 13, Fiessler in view of Lai discloses (Lai, fig. 1) a safety device characterized in that the adjusting means (41) is in the form of a retaining stop for supporting the locking element or the retaining mechanism in the direction of the standing surface (Lai, column 2, lines 1-38).

In regard to claim 14, Fiessler in view of Lai discloses (Lai, fig. 1) a safety device characterised in that at a distance measured in the displacement direction of the

Art Unit: 2878

retaining mechanism from the retaining stop in the direction of the standing surface, an additional adjusting means forming a switching surface running parallel to the displacement direction is arranged (Lai, column 2, lines 1-38).

In regard to claim 15, Fiessler in view of Lai discloses (Lai, fig. 1) a safety device characterized in that the stop and switching means forming the adjusting means is in the form of a one piece sheet metal part (Lai, column 2, lines 1-38).

In regard to claim 16, Fiessler discloses a safety device as set forth above. Fiessler fails to disclose that the guide rail with the guiding and locking device is arranged in a housing sleeve formed by at least one section. However, Lai discloses (fig. 1) an adjustment system having a guide rail (1) with a guiding and locking device (22) arranged in a housing sleeve (4) (column 2, lines 1-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to using the incorporate the system of Lai as a locking and adjusting system into the safety device of Fiessler in order to provide multiple locked positions that can bear a great load (column 1, lines 40-51).

In regard to claim 17, Fiessler in view of Lai discloses (Fiessler, fig. 1; Lai, fig. 1) a safety device characterized in that at an end region facing the standing surface on the housing sleeve a support plate (Fiessler, base of 16) aligned parallel to the standing surface is arranged for the beam emitter and/or the beam receiver.

In regard to claim 18, Fiessler discloses a safety device characterized in that in the housing sleeve for the transmission of energy and data, lines are arranged between

the beam emitter and/or the beam receiver and an output interface (column 6, lines 34-59).

In regard to claim 19, Fiessler in view of Lai discloses (Fiessler, fig. 1; Lai, fig. 1) a safety device characterized in that the lines are laid on a line guiding chain arranged in the housing sleeve.

In regard to claim 20, Fiessler discloses a safety device characterised in that the output interface is line-connected with the machine control system interface (column 6, lines 34-59). Note, Fiessler inherently discloses the above limitations because it is required to for the system of Fiessler to function as disclosed.

In regard to claim 22, Fiessler in view of Lai discloses (Lai, fig. 1) that the locking device is formed by a wedge element (22) mounted adjustably in the guiding and locking device (4) (column 2, lines 1-21).

In regard to claim 23, Fiessler in view of Lai discloses (Fiessler, fig. 1; Lai, fig. 1) a safety device characterized in that the wedge element can be adjusted in adjustment direction of the retaining mechanism in a guide of the housing.

In regard to claim 24, Fiessler in view of Lai discloses (Fiessler, fig. 1; Lai, fig. 1) a safety device characterized in that guide tracks (41) of the guide for the wedge element run at an angle to the adjustment direction of the retaining mechanism formed by the guide rail.

In regard to claim 25, Fiessler in view of Lai discloses (Fiessler, fig. 1; Lai, fig. 1) a safety device characterized in that the wedge element is supported in the guide by roller elements (2) (Lai, column 2, lines 1-38).

Art Unit: 2878

In regard to claim 26, Fiessler in view of Lai discloses (Fiessler, fig. 1; Lai, fig. 1) a safety device characterized in that the wedge element can be adjusted into a release position by adjusting means out of a clamped position, in which the retaining mechanism is positioned relative to the housing (Lai, column 2, lines 1-38).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Livedalen whose telephone number is (571) 272-2715. The examiner can normally be reached on 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Danielle Monbleau*

bjl